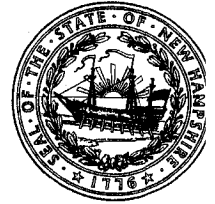




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

August 8, 2005

SAU 32
Attn: William Flemming
PO Box 488
Lebanon, NH 03770-0488

Re: Docket No. AF 05-026 Motion to Accept Settlement Agreement

Dear Mr. Flemming:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Scafani,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Tom Beaulieu, DES WMD
Susan Hanamoto, DES WMD

SAU 32 - Attn: William Flemming
Post Office Box 488
Lebanon, NH 03770-0488

**ADMINISTRATIVE FINE
No. AF 05-026**

Re: Plainfield Elementary School, 92 Bonner Road,
Plainfield, NH, UST ID#0-111710

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and SAU 32 parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. SAU 32 is the registered facility owner of one underground storage tank ("UST") at the Plainfield Elementary School facility ("the Facility"), further identified as UST # 0-111710, located on real property at 92 Bonner Road, Plainfield, NH ("the Property").
3. On April 20, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-026 ("the Notice") to SAU 32 seeking fines totaling \$1,200 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. The Notice cited SAU 32 for violating Env-Wm 1401.25(c) and (d) by failing to provide the minimum 5-gallon capacity for the spill containment device and by failing to properly install and maintain overfill protection equipment on Tank 2. Pursuant to Env-C 607.05(j) the Division sought a fine of \$200.
5. The Notice further cited SAU 32 for violating Env-Wm 1401.31(a) by failing to maintain leak monitoring equipment in good working order at all times to continuously perform its original design function for Tank 2 and by failing to perform the annual test for proper operation. Pursuant to Env-C 607.05(d) the Division sought a fine of \$1,000.
6. In order to settle this matter, the Division and SAU 32 have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, in the amount of \$1,200, 20% or \$240 shall be suspended due to SAU 32's history of compliance at this facility. An additional 20% or \$240 shall be suspended due to SAU 32's good faith effort to return this facility to compliance. An additional 20% or \$240 shall be suspended due to this being a one-time unintentional violation.
8. The suspended portion of the proposed fine, in the amount of \$720, is contingent upon SAU 32 maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years

from the date of the execution of this Agreement. If SAU 32 fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$720 shall become due and payable immediately. If SAU 32 maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

9. SAU 32 agrees to pay the remaining \$480 upon execution of this Agreement by SAU 32.
10. Payment under Paragraph # 9 and any payment that becomes due pursuant to Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, SAU 32 waives its right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by an authorized representative of SAU 32, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

7-13-05
Date

Respectfully submitted,
SAU 32

By: William Flemming

Duly Authorized

COPY
Russell W. Collins, Supt. of Schools
COPY
Russell W. Collins, Supt. of Schools

8/2/05
Date

DES Waste Management Division

COPY

Anthony P. Giunta, P.G., Director

This Motion to Accept Settlement Agreement is granted this 5th day of August, 2005.

COPY

Michael P. Nading, Commissioner
Department of Environmental Services